IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 21002 of 2007(A)

PETITIONER:

M.A. MOHAMMED, S/O.LATE M.M.ALIKUNJU,
MELAYIL HOUSE, THANKALAM, KOTHAMANGALAM,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.FAZIL
SMT.JAYASREE MANOJ
SRI.SREEJITH V.S.

RESPONDENTS:

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1. KOTHAMANGALAM MUNICIPALITY,
KOTHAMANGALAM, REP. BY ITS SECRETARY.

2. THE SECRETARY,
KOTHAMANGALAM MUNICIPALITY, KOTHAMANGALAM.

BY SRI. V.M. KURIAN, S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/07/2007 ALONG WITH W.P.C. NO.21023/07 & CONN. CASES , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. BASHEER, J.

W.P.(C). NOs. 21002, 21019, 21023, 21024, 21052, 21063, 21118 OF 2007

Dated this the 9th day of July, 2007

J U D G M E N T

Petitioners in these writ petitions impugn the respective orders issued by the Kothamangalam Municipality directing them to demolish certain alleged unauthorised structures in their building within seven days.

2. In the nature of the order that I propose to pass I do not deem it necessary to deal with the contentions raised by them, at length. The short question that has cropped up is whether the Municipality was justified in issuing the impugned orders without any prior notice or affording any opportunity to them to show cause.

3. Learned Standing counsel, who appears for the Municipality, fairly submits that the impugned orders may be treated as provisional order/notice as contemplated under Rule 18(1) of the Kerala Municipality Building Rules, 1999 to which the petitioners can raise objection.

4. It is submitted on behalf of the petitioners that they are prepared to file their objections in response to the impugned orders treating them as show cause notices. Petitioners shall do so within 7 days from today. The Municipality shall pass appropriate orders in the matter strictly on its merit and in accordance with law, as expeditiously as possible, at any rate, within one month from the date of receipt of the objection statements. Needless to mention, the Municipality shall ensure that petitioners are afforded sufficient opportunity to be heard before any decision is taken in the matter. Undoubtedly, if the Municipality passes orders against the petitioners, it will be open to them to take recourse to the remedy available to them under the Act and the Rules but, the said order shall be kept in abeyance for a period of 10 days from the date of serving a copy of the order on the respective petitioners.

The writ petitions are disposed of as above.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007